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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant(s): James Langham DALE et al.

Attorney Docket No.: 23558-0017

App. No.: 10/521,571

Confirmation No.: 4029

Group Art Unit: 1645

Filing Date: January 18, 2005

Examiner: Unassigned

Title: TRANSCRIPTIONAL CONTROL ELEMENT, CHIMERIC AND USES THEREFOR

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND, IN THE  
ALTERNATIVE, PETITION TO REVIVE UNINTENTIONALLY ABANDONED  
APPLICATION**

United States Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**RECEIVED**

14 SEP 2006

Legal Staff  
International Division

Sir:

Applicants hereby Petition to Withdraw the Notification of Abandonment mailed in the captioned application, which cited failure to properly respond to Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures.

On February 13, 2006, applicants received a Notification of Defective Response. The Notification was sent due to a problem with the Sequence Listing. Applicants responded to this Notification on March 8, 2006 by providing a revised Sequence Listing prepared by Harbor Consulting. The response was timely filed.

On June 5, 2006, the USPTO sent a notice of abandonment, which was not received by this firm until June 20, 2006. The reasons for the abandonment are not clear because applicants never received a second Notification of Defective Response. This is confirmed by a review of PAIR. Applicants provided a *bone fide* response to the

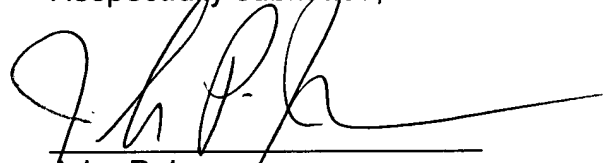
first Notice. Evidently, there was a defect in the second sequence listing prepared by Harbor Consulting, but applicants never received any notice of such a second defect.

Applicants have had another sequence listing prepared, which is provided herewith. Applicants have not abandoned the application because they responded on March 8, 2006, and if there was a defect in that March 8<sup>th</sup> response, applicants should have been given a time limit to respond as per 37 CFR §1.135(c). Such a new time limit was never provided.

Applicants submit herewith a Statement to Support Filing and Submission in Accordance with 37 CFR §§ 1.821-1.825, a paper copy of the sequence listing, and a disk copy of the sequence listing.

The Commissioner is hereby authorized to charge any required fee to Deposit Account No. 50-3840. In the alternative, this petition can be construed as a petition to revive an unintentionally abandoned application under 37 CFR § 1.137(b). The abandonment was unintentional. The Commissioner is hereby authorized to charge the required fee in accordance with 37 CFR §1.17(m) (Small Entity) to Deposit Account No. 50-3840.

Respectfully submitted,

  
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August 14, 2006

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